

ROBERT M. DOBSON
Claimant

CROWN WELL SERVICE
Respondent

PETROSURANCE CASUALTY CO.
Insurance Carrier

The respondent argues claimant failed to meet his burden of proof to establish that he suffered personal injury arising out of and in the course of his employment and that he failed to provide timely notice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the Board concludes the Administrative Law Judge's Order should be affirmed.

Claimant alleged that on August 3, 2001, he injured his low back when he bent over to pull on some equipment used in the course of his employment working on oil well rigs. Claimant testified that he told his supervisor, Jeff Crawford, that he had pulled some muscles in his back and needed to see a chiropractor.

When claimant saw a chiropractor on August 6, 2001, the history of injury noted on the medical record was "states fell & hurt neck July 23." That record contained neither mention of a work-related injury nor complaint of back pain. At his return appointment with the chiropractor on December 1, 2001, claimant reported a reinjury of his low back on November 30, but he did not relate the problem to work.

Claimant quit his job with respondent on December 24, 2001, when he was not allowed to leave work early that day. Within a week he obtained employment driving a tank truck hauling water and cleaning tanks.

Claimant saw his personal physician on December 18, 2001, with a variety of complaints including shoulder pain which claimant thought might have been exacerbated by his oil field work. The doctor referred claimant for an MRI and after the results were obtained referred claimant to Dr. Ali B. Manguoglu. Dr. Manguoglu noted claimant reported back pain for the prior four years. When claimant saw Dr. Paul L. O'Boynick on March 4, 2002, he noted he had low back pain for approximately two years and could not recall any specific back injury. Ultimately, Dr. Manguoglu performed surgery on claimant's back on April 5, 2002.

Claimant insisted he told his supervisor, Jeff Crawford, about his back problems and kept him informed about his doctor's appointments. But Mr. Crawford denied he was notified of any accident on August 3, 2001, or that claimant ever told him about hurting his back performing work activities. Claimant admitted that he never asked respondent to authorize medical treatment.

In summation, claimant complained of a specific injury at work on August 3, 2001, but the contemporaneous medical records neither mentioned a low back complaint nor a work-related injury. The claimant's supervisor denied claimant ever complained of work-related back injury. The medical records corroborate that testimony. The Judge had the opportunity to watch claimant testify and gauge claimant's credibility in light of the other evidence presented. The Judge determined claimant had failed to establish that he had injured his back while working for respondent. Based upon the record compiled to date, the Board agrees claimant failed to establish he suffered a work-related injury arising out of and in the course of his employment with respondent.

As provided by the Act, preliminary hearing findings are not binding but subject to modification upon a full hearing on the claim.¹

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Order of Administrative Law Judge Bruce E. Moore dated February 10, 2003, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of April 2003.

BOARD MEMBER

c: Joseph Seiwert, Attorney for Claimant
Kirby A. Vernon, Attorney for Respondent
Bruce E. Moore, Administrative Law Judge
Director, Division of Workers Compensation

¹ K.S.A. 44-534a(a)(2).